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2 **NAKAGAWA & RICO**
3 **A Professional Association**
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5 Attorneys for Defendants
Vista Property Development, Inc.,
6 Blue Ridge Properties, LLC,
and James Burke & Company
7

8
9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**
(Sacramento Division)

11 In re: Bankruptcy Case 02-21699-B-7

12 TRUCK-A-WAY,

13 Debtor.
14 _____/

15 MICHAEL P. DACQUISTO,

CIV S-03-0112-FCD

16 Plaintiff,

17 v.

**STIPULATION FOR TERMINATION OF
INJUNCTIONS AND TURNOVER OF
PROPERTY, AND ORDER THEREON**

18 LINDA M. BURKE, ET AL.,

19 Defendants.
20 _____/

21 Plaintiff Michael Dacquisto (hereafter "the Trustee"), Defendants Maureen Bossy
(hereafter "Bossy"), Linda M. Burke (hereafter "Linda Burke"), James D. Burke & Co., Vista
22 Property Development Inc.(hereafter "Vista"), Blue Ridge Properties, LLC (hereafter "Blue
23 Ridge"), and Christine Castro (hereafter "Castro"), and James D. Burke (hereafter "James Burke")
24 by and through their attorneys of record, hereby agree and stipulate as follows:

25 1. All the parties set forth above, and others, have entered into a global settlement
26 which includes the above-captioned action.

27 2. Said global settlement has been approved by the bankruptcy court with jurisdiction
28 over the pending bankruptcy cases of Truck-A-Way (Case No. 02-21699) and James D. Burke

1 (Case No. 02-26749), by means of orders the bankruptcy court entered March 10, 2005, which
2 currently are on appeal.

3 3. The global settlement requires the payment by wire transfer of \$350,000.00 by Blue
4 Ridge to the Trustee, and the payment by wire transfer of \$975,000.00 to the Trustee out of certain
5 funds in Canada, held in the name of Bossy.

6 4. The global settlement also provides for the termination of an injunction issued by
7 this Court in the above-captioned case on April 8, 2004 (hereafter "the April 8th Injunction"); for
8 termination of all attachments or other judicial restraints on the ability of any defendant to transfer
9 any property; for turnover by the Trustee of certain real property in Solano County, California to
10 Castro; for turnover by the Trustee of a certain Cessna airplane to Vista; for turnover by the
11 Trustee of certain real property in Palm Desert, California to Linda Burke; and for turnover by the
12 Trustee of certain real property in Las Vegas, Nevada to Linda Burke.

13 5. The parties hereby agree and stipulate that the April 8th Injunction shall be
14 terminated upon either of the following events:

15 (a) Any party hereto may file with the Court written notice that the wire transfers
16 have been initiated and provide a copy thereof by facsimile transmission to the Trustee and to his
17 counsel (hereafter "Notice of Payment"). Said Notice of Payment must include written
18 confirmation from the wiring bank that the wire transfers have been initiated. Effective at the
19 expiration of the third business day after the Notice of Payment is given, the April 8th Injunction
20 shall be deemed terminated, unless the Trustee files a written notice with this Court, contesting
21 that he has received the full amounts required under the global settlement (hereafter "Notice of
22 Non-Payment"). Copies of said notice must be provided by facsimile transmission to the
23 following attorneys: Gregory J. Hughes, Mike Nakagawa, W. Austin Cooper and Andrea Miller.
24 In the event that the Trustee files a Notice of Non-Payment, the injunction shall not terminate until
25 either the Trustee files a withdrawal of the Notice of Non-Payment, or this Court orders
26 termination or modification of the injunction. In the event a Notice of Non-Payment is not filed by
27 the Trustee, or if a Notice of Non-Payment is subsequently withdrawn by the Trustee, then any

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1 party hereto may lodge with the Court a proposed order in the form attached hereto as Exhibit “1”;
2 or

3 (b) Upon receiving confirmation of the receipt of the \$975,000.00 from the
4 Canada funds, and \$375,000.00 from Blue Ridge, the Trustee shall promptly provide written
5 notice of receipt of funds to the following persons: Gregory J. Hughes, Mike Nakagawa, W.
6 Austin Cooper, Andrea Miller, A.G. Edwards, and Canadian Imperial Bank of Commerce.
7 Immediately upon the Trustee providing such written notice, the April 8th Injunction shall be
8 deemed terminated, and any party hereto may lodge with the Court a proposed order in the form
9 attached hereto as Exhibit “1”.

10 6. Vista asserts that it is the record owner of a Cessna 210 airplane (N5128A). Unless
11 the Trustee files a Notice of Non-Payment, then three business days after the Notice of Payment
12 the Trustee shall be deemed to have turned over and released to Vista any interest in said airplane,
13 and any injunctive limitations on Vista’s use or ownership of said airplane shall be deemed to be
14 terminated.

15 7. Linda Burke asserts that she is an owner of record of an interest in a house in Las
16 Vegas (7266 Silver Charm Court, Las Vegas, NV). Unless the Trustee files a Notice of Non-
17 Payment, then three business days after the Notice of Payment the Trustee shall be deemed to have
18 turned over and released to Linda Burke any such interest in said house.

19 8. Linda Burke asserts that she is the record owner of a condominium in Palm Desert
20 (195 Desert Falls Drive East, Palm Desert, CA). Unless the Trustee files a Notice of Non-
21 Payment, then three business days after the Notice of Payment the Trustee shall be deemed to have
22 turned over and released to Linda Burke any interest in said condominium.

23 9. Castro asserts that she is the record owner of 60 acres of undeveloped land located
24 on Ciarlo Lane in Solano County, California. Unless the Trustee files a Notice of Non-Payment,
25 then three business days after the Notice of Payment the Trustee shall be deemed to have turned
26 over and released to Castro any interest in said land or proceeds therefrom.

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10. The turnover and release by the Trustee of the properties described in Paragraph 4 and implemented in Paragraphs 6, 7, 8 and 9 above, is without prejudice to any claims between Vista, Linda Burke, James Burke, and Castro as to their ownership interests in said properties.

11. Within two weeks after the Trustee's undisputed receipt of the payments as provided in Paragraph 3, above, the parties shall submit a further stipulation for dismissal of the above-captioned action in the form attached hereto as Exhibit "2".

12. This Stipulation may be signed by facsimile in counterparts and the parties agree that the fully executed Stipulation may be submitted to the Court for approval without further notice.

IT IS SO STIPULATED.

Dated: _____, 2005

Michael P. Dacquisto, Chapter 7
Trustee for the Truck-A-Way Estate

Dated: _____, 2005

Maureen Bossy

Dated: _____, 2005

Linda M. Burke

Dated: _____, 2005

James D. Burke & Co.

By

James D. Burke

Dated: _____, 2005

Vista Property Development, Inc.

By

James D. Burke

1 Dated: _____, 2005

Blue Ridge Properties, LLC

2
3 By _____

James D. Burke

4
5 Dated: _____, 2005

6 _____
James D. Burke

7 Dated: _____, 2005

8 _____
Christine Castro

9
10
11 **APPROVED AS TO FORM:**

12 **Stevens & O'Connell, LLP**

13
14 Dated: _____, 2005

15 By _____

Craig C. Allison, Esq.
Attorneys for Michael P. Dacquisto,
Chapter 7 Trustee for the
Truck-A-Way Estate

16
17
18 **Nageley, Meredith & Miller**

19
20 Dated: _____, 2005

21 By _____

Andrea M. Miller, Esq.
Attorneys for Maureen Bossy

22
23 **Hughes & Pritchard, LLP**

24
25 Dated: _____, 2005

26 By _____

Gregory J. Hughes, Esq.
Attorneys for Linda M. Burke

Rothschild, Wishek & Sands

Dated: _____, 2005

By

Michael C. Chastaine, Esq.
Attorney for Christine Castro

**Nakagawa & Rico
A Professional Association**

Dated: _____, 2005

By

Mike K. Nakagawa, Esq.
Attorneys for Vista Property Development,
Inc. Blue Ridge Properties, LLC, and James
Burke & Company

**W. Austin Cooper
A Professional Corporation**

Dated: _____, 2005

By

W. Austin Cooper, Esq.
Attorneys for James D. Burke

ORDER

The above stipulation is hereby approved.

Dated: June 20, 2005

/s/ Frank C. Damrell Jr.
Honorable Frank C. Damrell, Jr.
United States District Judge

Exhibit 1

Mike K. Nakagawa, Esq. (SB#95760)
NAKAGAWA & RICO
A Professional Association
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Attorneys for Defendants
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Blue Ridge Properties, LLC,
and James Burke & Company

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
(Sacramento Division)

In re: Bankruptcy Case 02-21699-B-7

TRUCK-A-WAY,

Debtor.

MICHAEL P. DACQUISTO,

Plaintiff,

v.

LINDA M. BURKE, ET AL.,

Defendants.

CIV S-03-0112-FCD

**ORDER TERMINATING
PRELIMINARY INJUNCTION AS WELL
AS ATTACHMENTS AND OTHER
JUDICIAL RESTRAINTS**

The Court previously having approved a Stipulation for Termination of Injunctions and Turnover of Property between Plaintiff Michael Dacquisto, Defendants Maureen Bossy, Linda M. Burke, James D. Burke & Co., Vista Property Development Inc., Blue Ridge Properties, LLC and Christine Castro, as well as James D. Burke, finds that all conditions in such Stipulation have been met for entry of an order terminating the preliminary injunction entered in this action.

IT IS THEREFORE ORDERED that the preliminary injunction entered in this proceeding on April 8, 2004, be, and the same hereby is, **TERMINATED**.

EXHIBIT 1

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3 **IT IS FURTHER ORDERED** that all attachments or other judicial restraints on the ability
4 of any Defendant to use or transfer any property be, and the same hereby are, **TERMINATED**.

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7 Dated: _____

Honorable Frank C. Damrell, Jr.
United States District Judge

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2 **NAKAGAWA & RICO**
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5 Attorneys for Defendants
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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**
11 (Sacramento Division)

12 In re: Bankruptcy Case 02-21699-B-7

13 TRUCK-A-WAY,

14 Debtor.
15 _____/

16 MICHAEL P. DACQUISTO,

CIV S-03-0112-FCD

17 Plaintiff,

18 v.

**STIPULATION FOR DISMISSAL OF
ACTION WITH PREJUDICE, AND
ORDER THEREON**

19 LINDA M. BURKE, ET AL.,

20 Defendants.
21 _____/

22 The Court previously having approved a Stipulation for Termination of Injunctions and
23 Turnover of Property between Plaintiff Michael Dacquisto, Defendants Maureen Bossy, Linda M.
24 Burke, James D. Burke & Co., Vista Property Development Inc., Blue Ridge Properties, LLC and
25 Christine Castro, as well as James D. Burke, and all conditions in such Stipulation having been
26 met, the parties thereto further stipulate and agree that the above-captioned action shall be
27 dismissed with prejudice.
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EXHIBIT 2

1 **IT IS SO STIPULATED.**

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3
4 Dated: _____, 2005

Michael P. Dacquisto, Chapter 7
Trustee for the Truck-A-Way Estate

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6
7 Dated: _____, 2005

Maureen Bossy

8
9 Dated: _____, 2005

Linda M. Burke

10
11 Dated: _____, 2005

James D. Burke & Co.

12
13 By _____
James D. Burke

14
15 Dated: _____, 2005

Vista Property Development, Inc.

16
17 By _____
James D. Burke

18
19 Dated: _____, 2005

Blue Ridge Properties, LLC

20
21 By _____
James D. Burke

22
23 Dated: _____, 2005

James D. Burke

24
25 Dated: _____, 2005

Christine Castro

1 **APPROVED AS TO FORM:**

2 **Stevens & O'Connell, LLP**

3
4 Dated: _____, 2005

By

Craig C. Allison, Esq.
Attorneys for Michael P. Dacquisto, Chapter 7
Trustee for the Truck-A-Way Estate

6
7 **Nageley, Meredith & Miller**

8
9 Dated: _____, 2005

By

Andrea M. Miller, Esq.
Attorneys for Maureen Bossy

11
12 **Hughes & Pritchard, LLP**

13
14 Dated: _____, 2005

By

Gregory J. Hughes, Esq.
Attorneys for Linda M. Burke

16
17 **Rothschild, Wishek & Sands**

18
19 Dated: _____, 2005

By

Michael C. Chastaine, Esq.
Attorney for Christine Castro

21
22 **Nakagawa & Rico**
23 **A Professional Association**

24 Dated: _____, 2005

By

Mike K. Nakagawa, Esq.
Attorneys for Vista Property Development,
Inc. Blue Ridge Properties, LLC, and James
Burke & Company

**W. Austin Cooper
A Professional Corporation**

Dated: _____, 2005

By _____
W. Austin Cooper, Esq.
Attorneys for James D. Burke

ORDER

The above stipulation is hereby approved and the above-captioned proceeding is
DISMISSED WITH PREJUDICE.

Dated: _____

Honorable Frank C. Damrell, Jr.
United States District Judge